Submission on Action for Healthy Waterways

Overview

1. Do you think the proposals set out in this document will stop further degradation of New Zealand’s freshwater resources, with water quality materially improving within five years?

Response:

We support the overall intent and direction of the ‘action for healthy waterways’ discussion document. We understand that our communities are seeking a better understanding of, and improvement in, the quality of their urban waterways.

However, at least in terms of network infrastructure, it will be difficult to achieve the improvements required to stop further degradation of urban freshwater resources in five years. Long-term plans set out the investment direction of local authorities 10-20 years in advance, and are updated in response to investment priorities reviewed every three years. It may be difficult to secure funding for upgrading infrastructure that would help halt degradation within the five year timeframe. It is suggested that consideration of the timing and financial implications of the proposed package is fully analysed and articulated as part of any future consultation.

In terms of the mechanics of the package, some elements do not work together to achieve the outcome sought. For example:

- National Policy Statement-Freshwater Management Part 3.4(6) “Every territorial authority must include objectives, policies, and methods in its district plan at the next review of the plan to avoid, remedy, or mitigate the cumulative adverse effects of land use resulting from urban development on waterbodies and sensitive receiving environments.”

While we support this direction, as an essential response to an identified policy gap, the “next review” could be 10 years or more away. The National Policy Statement – Urban Development has some more timely requirements eg 18 months and this could be followed with regards to Part 3.4(6). Alternatively, territorial authorities could be required to notify changes within two years of the regional plan being completed which would enable an integrated and consistent approach.

2. Do you think the proposals will bring New Zealand’s freshwater resources, waterways and ecosystems to a healthy state within a generation?
Response:

Improving *urban* freshwater resources, waterways and ecosystems to meet those national bottom lines described in the draft NPS-FM is likely to be unachievable within existing Long Term Plan envelopes (10 years) and would be challenging to achieve within a generation. Improving freshwater quality in urban catchments is subject to different challenges than in other areas, as in large part water quality is a result of run-off from impervious surfaces (which cannot be addressed without significant investment infrastructure, and even then there are practical limitations in terms of what can be achieved). It is *suggested* that consideration is given to the financial implications of the package, and articulated to communities, including in the course of setting target attribute states.

This issue could be addressed by re-inserting policies that require regional councils to consider the implications for communities arising from freshwater objectives and associated targets and limits, including in terms of infrastructure investment and economic implications (such as currently articulated in the NPS-FM 2014, at Policy CA2(f)(v)). We comment on the absence of an equivalent to Policy CA2 further below.

3. What difference do you think these proposals would make to your local waterways, and your contact with them?

Response:

We *encourage* an approach that re-engages communities with waterbodies. We suggest that the National Objectives Framework as it relates to human health should be reframed to more clearly focus on situations where desired use of and contact with an urban waterbody is limited by contamination or perceived contamination, rather than all waterbodies in a catchment.

We understand the intention was that targets would be set for any time period under cl. 3.9 and that the purpose of interim targets was to show that progress was being made, rather than necessarily having to show an improvement in bands. However, it is possible that the draft NPS-FM could be interpreted as requiring an improvement in all waterbodies in a catchment for e.coli to band ‘D’ (Table 11) within a 10 year timeframe. This would be practically unachievable in an urban catchment, without significant additional investment, that could be better prioritised to improvements in waterbodies that are primary contact sites. We *suggest* this should be clearly spelt out in the NPS.

In our view, clarification that a waterbody that is not used, or suitable for contact recreation could have human contact values that are less than ‘swimmable’ would be helpful.

We also understand that the intent of clause 3.9(2)(a) (setting target attribute states for human contact) is to be interpreted as requiring an improvement in total number terms for e.coli (table 11), rather than necessarily an improvement from the current state band to the next band up. It would also be helpful to have this intent clarified in the NPS-FM, in order to avoid uncertainty (and debate and litigation) in the future.

More generally, it would be useful to clarify (in the NPS-FM itself) whether target attribute states (for all attributes) need to be set exactly at the band levels, or whether they can be
set at other levels within those bands as determined by communities (provided this is at or above current state, and also above any relevant national bottom lines).

4. What actions do you think you, your business, or your organisation would take in response to the proposed measures?
   
   **Response:**
   
   *We strongly suggest* that for Wellington Water and partner councils there would need to be a fundamental increase in capital renewals and operational expenditure in order to contribute to a meaningful improvement in urban water quality OR there would need to be a major re-prioritisation of investments already planned to be able to meet the requirements of the NPS-FM (which would result in other 3 Waters projects not being undertaken). Alternatively, additional funding sources may be required.

5. What support or information could the Government provide to help you, your business, or your organisation to implement the proposals?

   **Response:**

   **Wastewater**

   *We strongly expect* that a significant investment response would be required. In urban environments water quality can be adversely affected by leakages or overflows from the wastewater network (and sometimes also from wastewater treatment plants (WWTPs) that discharge to fresh water). We understand that the government has commissioned analysis that indicates $3B worth of investment is required in WWTPs that discharge to freshwater in order to bring water quality in proximity to wastewater treatment plants up to a swimmable level.

   We understand that the scope of this analysis did not include wastewater networks upgrades required to address wet weather overflows or dry weather leakage. Accordingly, we believe that the true cost is much higher.

   **Drinking water**

   To assist in implementing the proposals, we strongly suggest the government could introduce national direction to mandate sustainable water use e.g. pressure management, and possibly water meters. There is clear evidence from NZ and overseas that once measures like this are introduced, water usage reduces. National direction would be a more efficient and effective approach than each Council undertaking this independently and on an ad hoc basis.

   **Stormwater**

   We also suggest there would be value in the government either providing national direction on, or mandating methods to avoid, remedy or mitigate effects of land use
resulting from urban development on water bodies e.g. as per the methods suggested in the notes after Part 3.4(6) of the proposed new NPS-FM.

6. Can you think of any unintended consequences from these policies that would get in the way of protection and/or restoration of ecosystem health?

Response:

Potentially, a strong focus on human contact values (and attributes such as e.coli) across all waterbodies (i.e. not just fourth order streams or identified primary contact sites) may divert available investment away from managing attributes that are more clearly linked to ecosystem health, such as Macroinvertebrate Community Index (MCI) etc.

There may be implications for a reduced supply of land for housing due to the need to protect urban and rural wetlands and streams. As such there needs to be further consideration of the relationship between the objectives of the NPS on Urban Development and the NPS for Freshwater Management.

7. Do you think it would be a good idea to have an independent national body to provide oversight of freshwater management implementation, as recommended by KWM and FLG?

Response:

Yes as a consistent long-term strategic approach outside of election cycles would be beneficial, and is supported.

8. Do you have any other comments?

Response:

The 2017 NPS-FM (Policy CA3(b)) included the ability to set attribute values lower than national bottom lines, where existing significant infrastructure contributed to poorer water quality… where that poorer water quality was required in order to receive the benefits of that infrastructure.

This provision is not included in the proposed NPS-FM. However, we suggest a similar approach would be appropriate to adequately consider the benefits of and investment in regionally significant infrastructure, specifically for municipal water supply. We discuss water supply as a priority for public health further below.

Te Mana o te Wai

9. Do you support the Te Mana o te Wai hierarchy of obligations, that the first priority is the health of the water, the second priority is providing for essential human health needs, such as drinking water, and third is other consumption and use?

Response:

We suggest the following points and changes with regards to this hierarchy of obligations:
We would suggest that essential public health needs of communities (e.g. drinking water) should be equal with the ecological health of waterbodies, rather than subservient.

Local Government have an obligation to maintain water services under the Local Government Act. S.130, and provide an 'adequate supply of drinking water' under the Health Act (s.69S). For this reason we suggest that it is not appropriate to require that these services are a secondary priority to ecological function.

We have a concern about how this will work in practice, so we strongly suggest that the NPS-FM is amended to provide clarity (and/or direct regional plans to provide clarity) as to the emergency implications of this priority. The approach may be contrary to the duties of lifeline utilities under the Civil Defence and Emergency Management Act 2002 (S.60).

If the ecological function of waterbodies is the priority, and water allocation in rivers may need to be reduced (particularly due to the impacts of climate change), then there will be a heightened need for households and businesses to reduce their water usage. We would therefore strongly suggest (as above) that government provide further guidance or national direction to mandate sustainable water use e.g. pressure management, water meters, as this is less likely to happen on a voluntary basis in the absence of national direction.

In addition to the above we strongly suggest the need for consistency in having national compulsory values, objectives and attributes across all three priorities for freshwater management. Our points are:

- Both the first priority (health of the water) and the third priority of other consumption and use (i.e. Human Contact and potentially also Mahinga Kai) have national compulsory values associated with them. This does not seem to exist (at least not in the draft NPS-FM) for the second priority of essential human health needs.
- For consistency we strongly suggest that a compulsory national value, be included in the NPS-FM Appendix 1A for “essential human health needs”. A suggestion is provided below.

**Suggestion:**
National Compulsory Value = Essential health needs of communities – “this refers to the extent to which waterbodies in an FMU support communities to provide for their essential public health needs, including water supply for drinking water, food preparation and personal hygiene, and the capacity of waterways to assimilate and dilute waste at times where public health may be at risk.”

Finally, the Discussion Document refers to the second priority in the hierarchy of obligations as “providing for essential human health needs, such as drinking water” (page 23 and also question 9). In contrast the NPS-FM itself at clause 1.5 simply refers to “the essential needs of people”, which is rather more open ended. It is also different to the wording in Objective 2.1(a), which (while not expressly linked to Te Mana o te wai) is essentially a restatement of the hierarchy of obligations and refers to the second priority as “the essential health needs of people”.

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Te Mana o te wai is set up as the ‘fundamental concept’ of the NPS-FM, which (under Policy 1) freshwater must be managed in a way that "gives effect to". It is therefore important that it is defined with as much precision as possible (subject to allowing some local interpretation as per the questions below), and in a way that is consistent with the Objective.

We therefore **suggest** that the second priority could be expressed (in both clause 1.5 and the Objective) as “the essential health needs of people, including for drinking water, food preparation, and personal hygiene”.

10. Do you think the proposals will have the desired effect of putting the health of the water first?

**Response:**
We **suggest** that in terms of prioritisation of investment by Councils, there may be a continued focus on essential human health needs as required by the Health Act and the Local Government Act.

11. Is it clear what regional councils have to do to manage freshwater in a way consistent with Te Mana o te Wai?

**Response:**
**No.** We **suggest** that at present the requirements are open to interpretation at a local level which may result in different priorities. This is due to the words “and understood locally” in Part 3.2(1), and the statement at clause 1.5 that the features of Te Mana o te Wai ‘may be interpreted differently by different people in different contexts’. While this appears to be intended in the drafting of the NPS-FM (and might be seen as inevitable to some extent?), we query where there is scope for more consistent guidance to be given.

12. Will creating a long-term vision change how councils and communities manage freshwater and contribute to upholding Te Mana o te Wai?

**Response:**
We are **not sure**. A long-term vision over the region would likely be at such a high level as to make it meaningless – particularly where, for example, the “local understandings” (clause 3.2(4)) of te mana o te wai differ for different iwi and communities across different parts of the same region. We therefore query whether requiring a ‘long term vision’ at regional level within the RPS represents the appropriate scale. Vision articulation at a catchment or other sub-regional level is likely to be more effective. If this is in fact what was intended (e.g. by the reference to ‘understandings’ (plural)), then it would be useful for clause 3.2 to clarify this.

**New Maori Value**

13. Do you think either or both of these proposals will be effective in improving the incorporation of Māori values in regional freshwater planning?

**Response:**
We are supportive of improving the incorporation of Māori values in regional freshwater planning, but acknowledge that others are better placed to respond to this question.

14. Do you foresee any implementation issues associated with either approach?

Response:
We foresee two potential issues with implementation:

a) We suggest there might be issues in implementation in geographical areas where there is overlapping rohe of mana whenua and there is a differing view on values. It is not clear how this could be managed and/or resolved.

b) Experience has shown us that whilst there might be a willingness to participate, there may be capacity issues with regards to mana whenua participation. We strongly suggest there is a need for a national approach to increasing capacity in Iwi and mana whenua organisations to participate in aspects such as required under the NPS-FM. This is especially relevant at a time when other National direction (eg NPS-UD) requires input from the same people/organisations.

15. What are the benefits and impacts of either of these approaches?

Response: We have no particular view on this.

16. What implementation support will need to be provided?

Response:
We strongly suggest support in the form of an increase in capacity for Iwi and mana whenua organisations is needed as noted above in question 14.

New Planning Process for Freshwater

17. Do you support the proposal for a faster freshwater planning process? Note that there will be opportunity to comment on this proposal in detail through the select committee process on the Resource Management Amendment Bill later this year.

Response:
We are neutral. We suggest that reduced appeal rights on balance are acceptable if the consultation and hearings processes are robust. We support the intended outcome, that this should provide for reduced costs and a more efficient process. We also support merit appeals remaining where councils depart from freshwater hearings panel recommendations.

More Integrated Management of Freshwater

18. Does the proposal make the roles and responsibilities between regional councils and territorial authorities sufficiently clear?

Response:
We support this change. This is an identified gap in the current Wellington Regional Policy Statement, and is a welcome step forward for better integrated management of catchments.

It would be useful to align the territorial authority requirements with those for regional councils in terms of timing i.e. notifying changes to territorial authority plans within two years of the regional plan being completed, rather than only when next reviewed in the case of district plans.

To achieve the required outcome of this proposal we strongly suggest that the NPS-FM provides a more mandated direction with regards to the items listed in the
Information Note for Part 3.4.(6). We strongly suggest these should be listed as actual requirements, not suggestions in a note. This approach is consistent with a more “direct” approach taken in other NPS documents e.g. NPS-UD.

Exceptions for Major Hydro Schemes

19. Does the proposal to allow exceptions for the six largest hydro-electricity schemes effectively balance New Zealand’s freshwater health needs and climate change obligations, as well as ensuring a secure supply of affordable electricity?

Response:
We have no particular view with regards to Major Hydro Schemes.

However we would suggest that SubPart 4 of the NPS-FM could also recognise the importance of municipal water supply catchments to the function of our communities and that it may be appropriate that these should also have some (limited) exceptions (such as during a water supply shortage).

Attributes

20. Do you think the proposed attributes and management approach will contribute to improving ecosystem health? Why/why not?

Response:
We agree that the proposed attributes and management approach will contribute to improving ecosystem health. They will likely do this by providing a structured framework, clear targets and a coherent process.

However, we are concerned that in some urban environments (i.e. with a very high degree of paved surfaces) the MCI attribute targets (Table 13) are unlikely to be achievable (with any feasible level of investment, or without converting swathes of urban area into vegetation), due to the high flow variability that waterways in such environments experience during high rainfall events.

Accordingly, we suggest that the exception in clause 3.23(1) should apply to this situation as well: i.e. to refer to “naturally occurring processes or other constraints such as the topography or physical nature of the FMU (including the existing impermeable surface area)”. Alternatively this situation could be provided for separately in a new paragraph in clause 3.23.

21. If we are managing for macroinvertebrates, fish, and periphyton, do we also need to have attributes for nutrients that have been developed based on relationships with aquatic life?

Response:
Management of nutrients is generally required to achieve the aquatic life objective. However, we suggest there may be circumstances where it makes sense to manage either phosphorus or nitrogen, whichever is limiting periphyton growth, or to manage periphyton growth by other means, such as increased shading. Accordingly, a focus on the aquatic life objectives (rather than directly on nutrients) enables greater flexibility in terms of how they are met, to take appropriate action in response to local circumstances. Essentially, we suggest the overall focus should be on the ecological (and human health) outcomes, rather than physical/chemical aspects per se – the
priority is really managing periphyton, and to some extent managing nitrogen and phosphorous is more of a means to an end.

**Threatened Indigenous Species**

22. Do you support the new compulsory national value? Why/why not?

*Response:*
We *suggest* that it is not clear that this is needed. Current best practice for ecological impact assessment is to allocate high values to threatened species, thereby providing a higher level of protection via consent processes etc.

**Fish Passage**

23. Do you support the proposed fish passage requirements? Why/why not?

*Response:*
We *suggest* it is unclear how upgrading existing structures will be achieved through the work programme outlined in Part 3.17 (4) and (5). It is unclear what occurs after the work programme has been developed i.e. who pays for remediation, and how a work programme can “require” owners to undertake work when these are structures a regional council does not own. Is the upgrade to be implemented by the owner when applying to renew existing consents, or is it intended that existing consents would be reviewed to impose this obligation, for instance?

We *strongly suggest* that the next step in the process and who is accountable for what, is made clearer in the NPS-FM to ensure that the work programme has the desired effect.

24. Should fish passage requirements also apply to existing instream structures that are potentially barriers to fish passage, and if so, how long would it take for these structures to be modified and/or consented?

*Response:*
We *agree* that this is reasonable in the course of renewal and upgrade at the end of functional life and that this should be undertaken as gradual improvement of the asset. This would align with existing renewal and/or maintenance timeframes. However, there could be substantial costs associated with having to either obtain consent for existing activities or review existing consents to impose these obligations before the consents expire, if that was what was intended.

**Wetlands**

25. Do you support the proposal to protect remaining wetlands? Why/why not?

*Response:*
We *support* the proposal to protect remaining natural wetlands.

We note that it looks like management of constructed wetlands will be permitted (clause 3.15(8) of the NPS-FM). We *strongly suggest* it would be useful to include a requirement to permit their construction also (or provide for this as a controlled activity). For instance building a constructed wetland for treatment of stormwater runoff as part of a land development. This would be consistent with Part 3.4(6).
26. If this proposal was implemented, what would you have to do differently?

Response: We are not directly affected by this proposal in our normal three waters operations and have no comment

Streams

27. Do you support the proposal to limit stream loss? Why/why not?

Response:
We support the proposal to limit net loss of streams. We would support the inclusion of ephemeral streams and overland (secondary) flow paths for the purpose of stormwater drainage to provide for protection of properties from the adverse effects of flooding.

We also support the focus being on ‘no net loss’, rather than ‘no loss’ whatsoever. As recognised in the proposals, there are some circumstances where works with adverse effects on streams are necessary and appropriate, for example in relation to flood protection.

28. If this proposal was implemented, what would you have to do differently?

Response: We are not directly affected by this proposal in our normal three waters operations and have no comment

29. Do the ‘offsetting’ components adequately make up for habitat loss?

Response:
We suggest that offsetting can only be considered in the context of an ‘effects management hierarchy’ and the principal of ‘no net loss in extent or ecosystem health’.

We suggest that offsetting, when properly applied, can adequately make up for habitat loss, and is appropriate where harm to streams cannot be avoided (such as may be the case in undertaking necessary flood protection work). However, in many situations offsetting may not be properly designed or implemented.

We suggest that for the sake of clarity, a definition for offsetting should be provided in the NPS-FM. There would be value in confirming the approach to offsetting (either in this NPS or elsewhere, such as the Proposed National Policy Statement for Indigenous Biodiversity), otherwise there is scope for councils to inappropriately impose inconsistent requirements (for example in terms of the offsetting ratio).

New Bottom Line for Nutrient Pollution

30. Do you support introducing new bottom lines for nitrogen and phosphorus? Why/why not?

Response:
We support this conditionally. There may be circumstances where it makes sense to reduce either phosphorus or nitrogen, whichever is most effective or achievable for limiting plant growth, or to manage excessive plant growth by other means, such as increased shading (see our response to question 21 above).

Accordingly we suggest that the proposed approach may be too inflexible, and the focus should be more on the ecological implications of elevated nitrogen and/or phosphorous as per the other attributes.
The process described in the note attached to the periphyton attribute Table (Table 2, Appendix 2A) addresses this. This text appears to have been largely retained from the periphyton (trophic state) table at page 33 of the NPS-FM 2014, and it is not clear how these requirements sit with the additional new requirements to separately provide target attribute states for DIN and DRP in new Tables 5 and 6.

31. If this proposal was implemented, what would you have to do differently?

Response: Unclear. We may need to update our monitoring programmes and contracts with an associated cost.

32. Do you have a view on the STAG’s recommendation to remove the ‘productive class’ definition for the periphyton attribute?

Response: We have no particular view on the STAG’s recommendation.

Reducing Sediment

33. For deposited sediment, should there be a rule that if, after a period (say five years), the amount of sediment being deposited in an estuary is not significantly reducing, then the regional council must implement further measures each and every year? If so, what should the rule say?

Response: It is not clear why deposited sediment should be treated as a special case, i.e. subject to different requirements than any other attribute. Clauses 3.13 and 3.14 already require monitoring and a (further) action plan if a deterioration or lack of improvement is detected, for all attributes. Clause 3.14(3) makes it clear that this can include regulatory or non-regulatory methods.

34. Do you have any comments on the proposed suspended sediment attribute?

Response: The STAG recommendation is that this attribute should be based on a median turbidity value based on two years of monthly data. We note this hasn’t come through into Table 10 where the specified values appear as maximum rather than medians, and in our view would be unworkable.

35. If this proposal was implemented, what would you have to do differently?

Response: There will be implications for earthworks rules in regional and district plans but this would be for them to comment

Higher Standard for Swimming

36. Do you agree with the recommended approach to improving water quality at swimming sites using action plans that can be targeted at specific sources of faecal contamination? Why/why not?

Response:
We agree with the recommended approach to improving water quality at swimming sites (i.e. only applying a national bottom line in respect of identified ‘primary contact sites’, in new Table 23).

We suggest though that the NPS-FM should clarify that these limits (which are more stringent than the e.coli levels for general human contact in Table 11) are not appropriate to be applied more generally. For instance, this Part of the NPS-FM looks at the actual human contact values in a location for swimming, which is appropriate. However, where the human contact value is not full immersion, stringent e.coli standards are inappropriate (and the general standards in Table 11 should apply instead). A focus on achieving unnecessarily high standards in all cases would redirect investment from other attributes that may be more important for a given waterbody, such as those associated with ecological values.

Related to this, it is not quite clear what kinds of waterbodies the national target in Appendix 3 is directed at, and what outcomes it seeks to achieve.

Firstly, much like Appendix 6 of the current NPS-FM, Appendix 3 of the new NPS-FM refers to ‘proportions of specified rivers and lakes that are suitable for primary contact’. However, the phrase ‘specified rivers and lakes’ was defined in the NPS-FM to mean (for rivers) fourth order or above, but that definition has not been carried through to the new NPS-FM. As such, the application of the national target is potentially broader than it was previously, and may inappropriately apply to sites that are not actually suitable for swimming (primary contact). Accordingly, we suggest that the definition of ‘specified rivers and lakes’ (or a comparable definition) should be reinstated.

In addition, Appendix 3 appears to deem rivers and lakes to be ‘suitable for primary contact’ if they are in the blue, green or yellow categories for e. coli. Those categories correspond (and seemingly refer) to the bands in Table 11, Appendix 2A. It should be noted that Table 11 relates to general human contact rather than primary contact sites, and that in terms of the 95th percentile per 100ml value, the Yellow band in Table 11 (≤1200) is in fact below (i.e. does not achieve) the new national bottom line for primary contact sites in new Table 23 (540). If this is deliberate (e.g. if it is intended that the majority of primary contact sites reach at least the Yellow category in Table 11 by 2040, and then continue improving in order to also meet national bottom lines in Table 23), we suggest the relationship between Appendix 3 and the two attribute tables for e. coli needs to be clarified. Related to this, the text in the Appendix below the table (again, like the text in Appendix 6 of the NPS-FM 2014) refers to ‘the E. coli table attribute states”. That reference is now unclear, given there are two E. coli tables in the new NPS-FM.

The proposed sampling and monitoring regime under cl. 3.18 is likely to fall to Wellington Water and is not feasible with current resources. In addition, the proposed approach communicates the risk to the public sometime after samples have been collected. We support the shift from the surveillance monitoring approach to a modelling approach based on a relationship with rainfall/riverflow and e.coli levels using several years of data. Warnings could then be placed on regional council recreational water quality websites to give an indication of real time risk to the public.
Minimum Flows

37. Is any further direction, information, or support needed for regional council management of ecological flows and levels?

Response:
No further information is required at this stage.

Reporting Water Use

38. Do you have any comment on proposed telemetry requirements?

Response:
We note that these are already in use at Wellington Water.

Raising the Bar on Ecosystem Health

39. Do you have any other comments?

Response: No

Draft NPS-FM

40. Are the purpose, requirements, and process of the National Objectives Framework clearer now? Are some components still unclear?

Response:
We agree that the framework is generally clear, subject to comments on hierarchy of obligations and workability as mentioned in our earlier responses. We suggest that more clarity is still required on these matters.

In addition, there are two other aspects of the revised NOF which we think would benefit from further guidance in the NPS-FM.

Firstly, we note that improvements to freshwater quality (particularly in urban areas) will only be achieved through a range of different measures and mechanisms, including changing (or improving) land use, and investing in upgrades to three waters infrastructure. Some of these measures will be more expensive than others. In the context of the three waters review it has already been found that many councils are struggling to fund plant and pipe infrastructure to the level required to meet standards and community aspirations, keep pace with population growth, and build resilience against natural events. The Cabinet Paper went so far as to conclude that ‘for many smaller councils, there is no clear way forward given the scale of the challenges’.

In the context of the objective setting process under the NOF, this means there is a need for councils and communities to prioritise where and how improvements are made, and over what timeframe, so that finite resources (including funding) can be used efficiently to achieve the best overall environmental outcomes. For this reason, we strongly suggest that it is appropriate for a clause similar to Policy CA2(f) of the NPSFM 2014 to be retained in the new NPSFM. This Policy required regional councils, in setting freshwater objectives (now ‘environmental outcomes’ and/or ‘target attribute states’) to consider at every stage matters such as (iii) ‘the limits that would be required to achieve the freshwater objectives’, and (v) ‘any implications for resource users, people and communities arising from the freshwater objectives and associated limits including implications for actions, investments, ongoing management changes and any social,
cultural, or economic implications’. Accordingly, this policy essentially required an iterative approach to the development of objectives and their corresponding limits (as well as methods and investment requirements).

We think that, provided that national bottom lines are or will be met, it is appropriate for communities to set environmental outcomes and target attribute states having regard to the investment they would require, as well as the implications for people and communities (in other words, what restrictions and investments are required to meet the necessary limits). We note that, even without such a policy, once any environmental outcomes, target attribute states or limits are notified as part of a plan change they will be subject to scrutiny under section 32 in terms of (among other things) their social and economic implications, relative to alternatives. It is therefore appropriate for the NPS-FM to direct councils and communities to consider these matters at the time that these parameters (to comprise a future plan change) are being developed.

In contrast, the draft NPSFM appears to envisage a sequential approach to the development of first environmental outcomes (under clause 3.7, and even before ascertaining the current attribute state under clause 3.8), then target attribute states and timeframes (clause 3.9), and only then to identify limits to achieve them. We strongly suggest that this sequence should be revised to provide for a more logical and iterative consideration of the current attribute state, environmental outcomes, targets and limits (and their implications), and to require consideration of the kinds of matters set out in policy CA2(f) of the current NPSFM.

The second matter is the directions (such as in clauses 3.8(3), 3.9(6)(b-c), and 3.10(5)) of the new NPS-FM to use ‘best information available’ (including partial data and local knowledge), and to not delay making decisions about target attribute states because of ‘uncertainty about the quality or quantity’ of the information. While we agree with the need for urgency (and to avoid delay) in making decisions to improve freshwater management, we suggest that guidance should be provided as to how these clauses of the NPS-FM are to be reconciled with the requirements of section 32 RMA (including to assess alternatives, the efficiency and effectiveness of proposals to achieve objectives, and to contain a level of detail that corresponds to the scale and significance of the anticipated effects). We suggest that, for example, the NPS-FM could direct councils when notifying a plan change to identify when they are relying on less data than would usually be expected (i.e. pursuant to these directions in clauses 3.8(3) and 3.9(6)(b) and (c)), identify how any information gaps can be filled in the future, and to set a timeframe or trigger for reviewing the provisions (including target attribute states and limits) in light of any further data that may subsequently become available.

41. What are your thoughts on the proposed technical definitions and parameters of the proposed regulations? Please refer to the specific policy in your response.

Response: In the context of the heading of this section, we interpret this as pertaining to the new NPS-FM, rather than 'regulations'. In our view further clarity is required to understand the requirement to improve upon current attribute state (even if that is already above national bottom lines) in relation to human contact (clause 3.9(2)(a)). We understand that "above the current state of that attribute" could refer to an improvement in numerical terms within a band in the attribute tables, rather than necessarily an
improvement from one band to another. However, we suggest it is important that this is clarified in the NPS-FM.

42. What are your thoughts on the timeframes incorporated in the proposed regulations? Please refer to the specific policy in your response.

Response: As above, in the context of the heading of this section we interpret this question as pertaining to the new NPS-FM. We support the use of long-term objective states and interim targets.

Drinking Water NES

43. Do you agree with the proposed amendments to the Drinking Water NES? Why/why not?

Response: We generally agree with the proposed amendments.

44. Are there other issues with the current Drinking Water NES that need to be addressed?

Response: Not that we have identified

45. Do you have any other comments?

Response: We suggest that one issue that is not clear in Section 6.2 of the Discussion Document is the need for the new/updated NES to give regional councils and territorial authorities the ability to protect identified future drinking water sources as well as existing ones.

We suggest that this is also necessary, because otherwise councils will have little or no ability to control activities that could have long term consequences and impact the ability to provide for growth. We note that the issue is touched on in the literature review (Appendix B) of the PDP Technical Guidelines, but don’t think this gives it enough importance.

Wastewater NES

46. Does the proposed Wastewater NES address all the matters that are important when consenting discharges from wastewater networks? Will it lead to better environmental performance, improve and standardise practices, and provide greater certainty when consenting and investing?

Response: We suggest that Regional Plans should not be able to have more stringent requirements that the National requirements in the Wastewater NES, and that the NES should make this clear.

The wastewater NES should also recognise the existence of unconstructed overflows which occur in many older wastewater networks. Refer further comments below.
In our view it is also appropriate for the NES to enable management and consenting of network overflows on a catchment rather than individual level, so as to allow for prioritisation of mitigation works, and efficient work programmes to achieve improvements at a broader scale.

47. Do you agree with the scope of the proposed risk management plans for wastewater and stormwater operators? Are there other aspects that should be included in these plans?

Response: We agree.

48. What specific national level guidance would be useful for supporting best practice in stormwater policy and planning and/or the use of green infrastructure and water sensitive design in stormwater network design and operation?

Response: No comment

49. What are the most effective metrics for measuring and benchmarking the environmental performance of stormwater and wastewater networks? What measures are most important, relevant and useful to network operators, regional councils, communities, and iwi?

Response: Wastewater network performance should be benchmarked through hydraulic modelling against defined rainfall profiles. For example, US Environmental Protection Agency do this using the EPANET software, which can provide direction on where manhole surcharging is occurring.

Clear definitions are required for overflow events. For example, a definition similar to the UK Water Research Centre of ‘one spill’ for spills within a 12 hour block following the initial spill and then subsequent additional reported ‘spills’ for each next 24 hour block. The spill frequency also needs to be defined for the number of locations.

The degree of treatment required for overflows is significant, and we strongly suggest these are defined and prioritised in the proposed NES. In terms of increasing quality and reducing overall harm interventions to treat overflows should be prioritised as follows:

- Treatment of wastewater flowing from gully traps onto private property
- Treatment of wastewater flowing from surcharging manholes onto private residential property
- Treatment of wastewater flowing from surcharging manholes onto publicly accessible space, e.g. reserves
- Treatment of wastewater flowing from surcharging manholes onto public roads
- Treatment of wastewater flowing from controlled structures to stormwater
- Treatment of wastewater flowing from controlled structures to freshwater
• Treatment of wastewater flowing from controlled structures to estuary / harbour
• Treatment of wastewater flowing from controlled structures to open coastal sites
• Any fine (6mm orifice or smaller) screening treatment
• Settled and screened discharges
• Secondary treated discharges
• UV treated discharges

50. Do you have any other comments?

Response:

We note that environmental sampling of wet weather overflows is often hazardous (in terms of health and safety issues with sample collection during wet weather flooding events). The data we have gathered from grab sampling has also provided limited value and has shown that the stream quality recovers relatively quickly. Installation of auto-samplers is generally not practicable or reliable. General characterisation should be sufficient, and compulsory sampling should be restricted to major discharge sites.

We also note that the complete elimination of overflows is practically impossible without a high degree of stormwater protection and a change in NZ Building Code practise. In our experience, localised stormwater ponding will inevitably overload wastewater pipes due to inflow through gully traps.

Monitoring requirements on potentially surcharging manholes will need to be thought through carefully. Very few of these have telemetry or monitoring on at present and are consequently often under-reported.

Measurement of overflow volume is hydraulically complex and expensive and consideration of the use of estimation from hydraulic models is likely to be more practicable.

We would be happy to offer support during the development of the proposed NES.

Questions 51 to 78 are not answered as these questions relate to proposals affecting the rural sector, and do not affect three waters services provision in urban locations.

Comprehensive Review of the RMA
79. Do you think there are potential areas of tension or confusion between the proposals in this document and other national direction? If so, how could these be addressed?

Response:
We strongly suggest that there is a tension between the proposals in this document and the requirements of Councils, and Major Urban Centres in particular, to plan for growth under the National Policy Statement-Urban Development.

The tension is created by the potential for a reduced water take under Part 3.12 of the NPS-FM whilst at the same time the NPS-UD requires increased housing growth, which assuming the average water usage per person remains the same or similar, will increase the total amount of water usage/take. The proposed NPS-UD allows for identification (in an FDS) of areas where evidence shows that development 'should be avoided', but does not otherwise or more directly provide for freshwater matters to be considered in implementing that NPS. Accordingly, we consider that a greater level of integration between the two needs to be provided (by way of comparison, see the approach taken in Proposed Policy 3 of the NPS-HPL, which provides clear direction on how to reconcile the requirements of that NPS with the NPS-UDC).

One way to address this tension is for the per person usage to reduce to at least the level required to compensate for the increased growth in households. We have suggested ways to resolve this issue nationally under Question 5 above where we state: “To assist in implementing the proposals, we strongly suggest the government could introduce national direction to mandate sustainable water use eg pressure management, water meters. There is clear evidence from NZ and overseas that once measures like this are introduced, water usage reduces. National direction would be a more efficient and effective approach than each Council undertaking this.”

We note in response to Question 45 above the concern if there is no ability for Regional Councils and Territorial Authorities to protect future drinking water sources as well as existing ones. If this is not addressed there will be a tension here related to the need for Councils to provide for growth under the NPS-UD.

80. Do you think a planning standard is needed to support the consistent implementation of some proposals in this document? If so, what specific provisions do you consider would be effectively delivered through a planning standard tool?

Response:
We generally support a standardised approach to planning.